

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN FEDERATION OF)
GOVERNMENT EMPLOYEES, AFL-CIO)

Plaintiffs,)

v.)

EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION, et al.)

Defendants.)
_____)

Case No. 1:05CV01035 (RCL)

**DEFENDANTS' MOTION TO DISMISS OR, IN
THE ALTERNATIVE, FOR SUMMARY JUDGMENT**

Defendants hereby move to dismiss plaintiff's Complaint pursuant to Federal Rules of Civil Procedure 12(b)(1), for lack of standing, and 12(b)(6), for failure to state a claim. In the alternative, defendants move for summary judgment in accordance with Federal Rule of Civil Procedure 56. The reasons in support of this motion are set forth in the accompanying Memorandum of Points and Authorities.

Dated: July 22, 2005

Respectfully submitted,

PETER D. KEISLER
Assistant Attorney General

KENNETH L. WAINSTEIN
United States Attorney

/s/

ARTHUR R. GOLDBERG
CARLOTTA P. WELLS
U.S. Department of Justice
P.O. Box 883
Washington, D.C. 20044
(202) 514-4522 (telephone)
(202) 616-8470 (facsimile)

Counsel for Defendants

OF COUNSEL:

PEGGY R. MASTROIANNI

Associate Legal Counsel

THOMAS J. SCHLAGETER

Assistant Legal Counsel

JAMES G. ALLISON

Attorney

Equal Employment Opportunity Commission

1801 L Street, N.W.

Washington, D.C. 20507